

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA

On June 8, 2020, the Court held a hearing on Governor Bullock's motion to dismiss. ECF No. 144. In the briefing and during the hearing, Cottonwood pointed to three IBMP documents that indicate the state of Montana and Federal government jointly haze bison under the IBMP. ECF No. 121-5 at IV; ECF NO. 121-3 at 4; ECF No. 121-4 at 15. Cottonwood also pointed out that the state of Montana's previous discovery response admitted "Federal employees have participated with IBMP members, including MDOL, in hazing Yellowstone bison." ECF No. 73 at 2.

During the hearing, Cottonwood argued that Montana and the federal government have jointly hazed Yellowstone bison on federal land in May 2020. The Court directed Cottonwood to provide evidence supporting the contention by June 15, 2020.

While there is no administrative record in this case, Cottonwood now provides the court with photos of a federal employee jointly hazing Yellowstone bison with Montana Department of Livestock employees on federal land in May 2020. Exhibit 1. The defendants have repeatedly refused to answer whether the photos show a federal employee jointly hazing Yellowstone bison with Montana Department of Livestock employees on federal land in May 2020. Exhibit 2. Cottonwood therefore requests that the Court stay deciding the Governor's Motion to Dismiss until Cottonwood has completed limited jurisdictional discovery on the

issue of whether Defendants jointly hazed Yellowstone bison on federal land in May 2020. The Ninth Circuit permits a plaintiff to conduct discovery to establish jurisdiction. *Laub v. Dept. of Interior*, 342 F.3d 1080 (9th Cir. 2003). The discovery is necessary to further answer the question of whether state and federal management of Yellowstone bison is “sufficiently interrelated” to establish jurisdiction over Governor Bullock. *Id.* at 1092-93.

Pursuant to Local Civil Rule 7.1(c)(1), undersigned counsel contacted counsel for Federal Defendants and Governor Bullock, who indicated they oppose the stay and discovery.

Respectfully submitted this 12th Day of June, 2020.

/s/ John Meyer
JOHN MEYER

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of June, 2020, the foregoing was electronically filed with the Clerk of the Court and served using the CM/ECF system upon all parties and counsel of record.

/s/ John Meyer
JOHN MEYER

Attorney for Plaintiff